

REMARKS

Claims 1 to 17, and 20 to 39 are pending in the application. Claims 1, 10, 15, 17, 20, 24, 29, 33 and 37 have been amended as noted below. Entry of the amendments to claims 1, 10, 15, 17, 20, 24, 29, 33 and 37 is respectfully requested. Claims 2, 25, 30 and 34 have been cancelled. Additionally, entry and consideration of the following remarks is respectfully requested.

I. The 35 U.S.C. § 112 Second Paragraph Rejections:

Claims 1 to 17 and 20 to 23 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Specifically, the Examiner contends at page 2 of the Office Action dated April 23, 2003, that the structure recited in independent claims 1, 10, 15 and 20 is not clearly set forth in the claims because "only one of the upper or lower surfaces can possibly contact a container". Applicants respectfully disagree.

As shown in Figure 2 of the present specification, which is reproduced below for convenience, the presently claimed invention is a closure that can be used to seal containers such as envelopes, boxes, plastic food containers, pouches, medical trays, etc. (see page 17, lines 20 to 22 of the specification as filed). Given that the container may be one that has a portion that folds over onto itself (such as the flap of an envelope), it is possible that the closure of the present invention can contact the claimed container more than once. As an example, the closure shown in Figure 2 could be used to seal an envelope with upper bonding material 24 bonding to the flap of the envelope and the lower bonding material 24 bonding to the body of the envelope. The separation interface 23 would then permit the opening of the envelope when desired. Thus, the closure does in fact contact the "container" (i.e., envelope) more than once. The same can be said regarding other types of containers (e.g., boxes do have flaps that are used to seal the box).

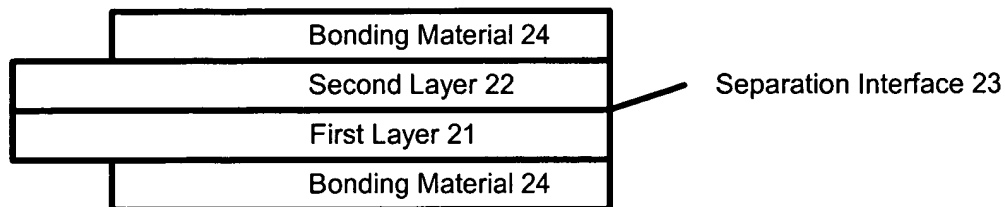


FIG. 2

In light of the above, one of skill in the art would readily recognize that the claims as presently worded definitely set forth the structure of the present invention. As such, the rejection of claims 1 to 17 and 20 to 23 under 35 U.S.C. § 112, second paragraph, is believed to be unfounded and withdrawal thereof is respectfully requested.

With regard to the rejection of claim 17 as being unclear, claim 17 has been amended for clarification purposes. Accordingly, the rejection of claim 17 is now believed to be moot and withdrawal thereof is respectfully requested.

Claim 20 has been rejected as failing to meet the 3-prong analysis of a "means plus function" claim. In light of this rejection claim 20 has been amended to more clearly utilize means-plus-function language. Given the amendment to claim 20, this rejection is now believed to be moot and withdrawal thereof is respectfully requested.

II. The Art Rejections:

Claims 24, 26 and 28 have been rejected under 35 U.S.C. § 102(b) over Freedman (U.S. Patent No. 4,925,714). The Examiner contends that Freedman discloses each and every feature of claims 24, 26 and 28.

Freedman relates to a multi-layer laminate in which two polymeric films are formed in contact with each other to provide a coextrusion. The interface between the two layers is a peelable interface. The coextrusion of Freedman also has two layers of pressure sensitive adhesive on the surface of each of the polymeric layers opposite the surface of the polymeric layers which form the peelable interface. The exposed surface of the adhesive layers can be covered with a release liner. The multi-layer laminate of

Freedman can be used to form a renewable cover for a tray or other product. The Examiner admits that Freedman does not teach uniaxial orientation of the films contained in his laminate. As is correctly noted by the Examiner, Freedman does not teach uniaxially orienting any of the layers in the laminate disclosed therein.

Additionally, Freedman is not directed to a closure. This is apparent from the Figures and description contained in Freedman which do not reveal an embodiment in which two layers of bonding material are located on opposing exposed surfaces of the laminate. Instead, Freedman discloses multilayer laminates that contain opposing layers of adhesive that are used to secure a facestock 30 to the laminate and the laminate 40/80 to a substrate.

Claim 24 has been amended to incorporate therein the subject matter of claim 25. That is, claim 24 now states that the first and second layers of the claimed closure are uniaxially oriented.

As is known to those of ordinary skill in the art, uniaxial orientation confers different physical and chemical properties upon a polymer film than biaxial orientation. For example, upon the application of heat to a biaxially stretched film, the film will shrink in two directions, whereas a uniaxially stretched film will only undergo shrinkage in one direction (the direction of stretching/orientation). Additionally, uniaxial stretching improves the strength of the film in only one direction as opposed to both directions. Thus, one of ordinary skill in the art recognizes that uniaxially stretched films are not equivalent to biaxially stretched films.

In light of the amendments made to claim 24 and the teachings of Freedman, Freedman fails to anticipate or render obvious claims 24, 26 and 28. Applicants, therefore, submit that claims 24, 26 and 28 are patentable over Freedman.

Claim 25 has been rejected under 35 U.S.C. § 103(a) over Freedman in view of Davis et al. (U.S. Patent No. 5,637,366). The Examiner contends that the combination of Freedman and Davis et al. discloses that some of the layers of the closure according to claim 24 can be uniaxially oriented.

Although claim 25 has been cancelled, thereby technically rendering this rejection moot, the rejection will be addressed as the subject matter of claim 25 has been incorporated into claim 24.

The teachings of Freedman are discussed above in detail.

Davis et al. relate to a polyester containing biaxially oriented polypropylene film (emphasis added). In particular, Davis et al. relate to a biaxially oriented polypropylene film which contained therein a polyester layer. As can be seen at column 1, lines 30 to 50 of Davis et al., the disclosure contained therein relating to uniaxially oriented films specifically states that uniaxially oriented films which contain a polyester tend to adhere to the heated rolls of the machine direction orientation section.

Accordingly, Davis et al. teaches away from uniaxially oriented films based on the disclosure contained at column 1 thereof and the fact that Davis et al. only discloses biaxially oriented as being within the scope of its invention. Since one of ordinary skill in the art recognizes that uniaxially stretched films are not equivalent to biaxially stretched films, one of ordinary skill in the art would not have been motivated by Davis et al. to use a uniaxially oriented film.

In light of the fact that claim 24 now includes therein the subject matter of claim 25 and given the teachings of Freedman and Davis et al., the combination thereof fails to anticipate or render obvious claims 24, 26 and 28.

Claim 27 has been rejected under 35 U.S.C. § 103(a) over Freedman. The Examiner contends that it would have been obvious to one of ordinary skill in the art to use a heat seal material as the bondable material of claim 24.

However, as is noted above, Freedman is not directed to a closure. Instead, Freedman discloses peelable labels and renewable laminate surfaces. Given the above, Applicants submit that claims 24 to 28 are patentable over Freedman taken alone or the combination of Freedman and Davis et al.

Claims 1, 3 to 14, 23, 29, 31 and 32 have been rejected under 35 U.S.C. § 103(a) over the combination of Freedman and Hatano et al. (U.S. Patent No. 4,915,289). The Examiner contends that it would have been obvious to one of ordinary

skill in the art to utilize the bondable and non-bondable areas disclosed in Hatano et al. in the closure of Freedman.

The teachings of Freedman are discussed above in detail.

Hatano et al. relate to an easily openable container which contains therein a closure which has bonded and non-bonded areas on the container portion and the closure portion thereof. Hatano et al. disclose that the closure portion, which is adhered to the container, can be a biaxially stretched polymer film (see column 7, lines 19 to 29). Hatano et al. mention nothing about a closure which contains uniaxially stretched layers.

Claims 1, 10 and 29 have been amended to state that the first and second layers of the closures are uniaxially oriented. As noted above, the combination of Freedman and Davis et al. fails to anticipate or render obvious such a closure. Additionally, Hatano et al. fail to cure the deficiencies of Freedman and/or Davis et al. with regard to the orientation of the films recited in the pending claims. Applicants, therefore, submit that claims 1, 3 to 14, 23, 29, 31 and 32 are patentable over the combination of Freedman and Hatano et al.

Claims 2 and 30 have been rejected under 35 U.S.C. § 103(a) over the combination of Freedman and Hatano et al., and further in view of Davis et al. With regard to claims 2 and 30, the Examiner contends that Davis et al. teaches uniaxial orientation of a polymer film.

Although claims 2 and 30 have been cancelled, thereby technically rendering this rejection moot, the rejection will be addressed as the subject matter of these claims has been incorporated into their respective independent claims.

The teachings of Freedman, Hatano et al. and Davis et al. are discussed above in detail.

As discussed above, one of ordinary skill in the art recognizes that uniaxially stretched films are not equivalent to biaxially stretched films. Since Davis et al. teaches away from uniaxially oriented films, one of ordinary skill in the art would not have been motivated by Davis et al. to use a uniaxially oriented film.

Given the disclosure contained in the cited art and the fact that claims 1 and 29 now include therein the subject matter of claims 2 and 30, respectively, the combination of Freedman, Hatano et al. and Davis et al. fails to anticipate or render obvious claims 1 and 29. The same rationale applies to claim 10 since claim 10 has also been amended to include the subject matter of claim 2. Applicants, therefore, submit that claims 1, 3 to 14, 23, 29, 31 and 32 are also patentable over the combination of Freedman, Hatano et al. and Davis et al.

Claims 15 to 17, 20 to 22, 33 and 35 to 39 have been rejected under 35 U.S.C. § 103(a) over the combination of Greer et al. (U.S. Patent No. 6,032,854) in view of Freedman and Hatano et al. The Examiner contends that since Greer et al. teaches an envelope, that it would have been obvious to one of ordinary skill in the art to utilize the bondable and non-bondable areas disclosed in Hatano et al. in the closure of Freedman in conjunction with an envelope.

The teachings of Freedman and Hatano et al. are discussed above in detail.

Greer et al. relates to spun-bonded olefin multiple use envelopes. As is correctly noted by the Examiner, Greer et al. do not disclose a directionally peelable closure. Nor do Greer et al. disclose a directionally peelable closure which contains therein uniaxially oriented films.

Claims 15, 20, 33 and 39 have been amended to state that the first and second layers of the closures are uniaxially oriented. As noted above, the combination of Freedman, Hatano et al. and Davis et al. fails to anticipate or render obvious such a closure. Additionally, Greer et al. fail to cure the deficiencies of Freedman, Hatano et al. and/or Davis et al. with regard to the orientation of the films recited in the pending claims. Applicants, therefore, submit that claims 15 to 17, 20 to 22, 33 and 35 to 39 are patentable over the combination of Greer et al., Freedman, Hatano et al. and/or Davis et al.

Claim 34 has been rejected under 35 U.S.C. § 103(a) over the combination of Greer et al. (U.S. Patent No. 6,032,854) in view of Freedman and Hatano et al., and

further in view of Davis et al. With regard to claim 34, the Examiner contends that Davis et al. teaches uniaxial orientation of a polymer film.

Although claim 34 has been cancelled, thereby technically rendering this rejection moot, the rejection will be addressed as the subject matter of this claim has been incorporated into independent claims 15, 33 and 39.

The teachings of Greer et al., Freedman, Hatano et al. and Davis et al. are discussed above in detail.

As discussed above, since Davis et al. teaches away from uniaxially oriented films, one of ordinary skill in the art would not have been motivated by Davis et al. to use a uniaxially oriented film.

Given the disclosure contained in the cited art and the fact that claims 15, 20, 33 and 39 now include therein the feature that the first and second layers of the claimed closure are uniaxially oriented, the combination of Greer et al., Freedman, Hatano et al. and Davis et al. fails to anticipate or render obvious claims 15 to 17, 20 to 22, 33 and 35 to 39.

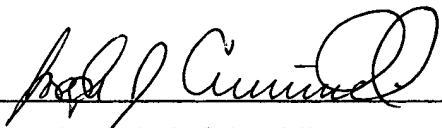
Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

09/408,634

AVERP2514USA

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Attorney Docket No. **AVERP2514USA**.

Respectfully submitted,
RENNER, OTTO, BOISSELLE & SKLAR, LLP

By 
Joseph J. Crimaldi
Reg. No. 41,690

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

APPENDIX

The following contains a detailed listing of the changes made to the claims. Please note, underlining denotes additions and ~~[bracketed-strikeout]~~ denotes deletions.

In The Claims:

The amendments to claims 1, 10, 15, 17, 20, 24, 29, 33 and 37 are as follows:

1. (Four Times amended) A closure with a directionally peelable opening feature for articles comprising a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and the lower surface of the first layer and the upper surface of the second layer each have at least one bondable area and at least one non-bondable area, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, provided that when the closure is used to secure an article, at least one non-bondable area of the lower surface of the first layer and at least one non-bondable area of the upper surface of the second layer are not attached to the article, wherein the films of the first and second layers have been uniaxially oriented.

10. (Four Times Amended) A directionally peelable closure for articles comprising a first and second layer of different polyolefin films, wherein each layer has an upper and lower surface, and the lower surface of the first layer and the upper surface of the second layer each have at least one bondable area and at least one non-bondable area, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface and wherein the separation interface between the first and second layers has a peel strength in the range of about 30 to about 400 grams per 1-inch width at 90° peel, provided that when the closure is used to secure an article, at least one non-bondable area of the lower surface of the first layer and at least one non-bondable area of the upper surface of the second layer are not attached to the article, wherein the films of the first and second layers have been uniaxially oriented.

15. (Four Times Amended) A container sealed with a directionally peelable closure, comprising an article which is articulated to provide for sealing with a closure and a closure adhered to the article, wherein the closure comprises a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and the lower surface of the first layer and the upper surface of the second layer each have at least one bondable area and at least one non-bondable area, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, and wherein the closure has at least one non-bondable

area of the lower surface of the first layer and at least one non-bondable area of the upper surface of the second layer which is not bonded to the container, wherein the films of the first and second layers have been uniaxially oriented.

17. (Amended) The container of claim 15 wherein the portion of the closure attached to the sealing flap is not secured to the envelope.

20. (Four Times Amended) A reuseable directionally sealed container comprising a container with two means for sealing [~~means~~] and two closures which are directionally peelable, wherein each closure is positioned on the container to contact a sealing means and wherein each closure comprises a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and the lower surface of the first layer and the upper surface of the second layer each have at least one bondable area and at least one non-bondable area, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, and wherein each closure has at least one non-bondable area of the lower surface of the first layer and at least one non-bondable area of the upper surface of the second layer which is not to the container, wherein the films of the first and second layers have been uniaxially oriented.

24. (Amended) A closure with a directionally peelable opening feature for articles comprising a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and at least one portion of the lower surface of the first layer and at least one portion of the upper surface of the second layer are covered by at least one bondable material, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, and provided that when the closure is used to secure an article, the bondable material is attached to the article, wherein the films of the first and second layers have been uniaxially oriented.

29. (Amended) A directionally peelable closure for articles comprising a first and second layer of different polyolefin films, wherein each layer has an upper and lower surface, and at least one portion of the lower surface of the first layer and at least one portion of the upper surface of the second layer are covered by at least one bondable material, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface and wherein the separation interface between the first and second layers has a peel strength in the range of about 30 to about 400 grams per 1-inch width at 90° peel, provided that when the closure is used to secure an article, the bondable material is attached to the article, wherein the films of the first and second layers have been uniaxially oriented.

33. (Amended) A container sealed with a directionally peelable closure, comprising an article which is articulated to provide for sealing with a closure and a closure adhered to the article, wherein the closure comprises a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and at least one portion of the lower surface of the first layer and at least one portion of the upper surface of the second layer are covered by at least one bondable material, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, and wherein the closure has at least one portion which lacks bondable material on the lower surface of the first layer and at least one portion which lacks bondable material on the upper surface of the second layer, the portions having bondable material bonding to the container and the portions lacking bondable material not bonding to the container, wherein the films of the first and second layers have been uniaxially oriented.

37. (Amended) A reuseable directionally sealed container comprising a container with two sealing means and two closures which are directionally peelable, wherein each closure is positioned on the container to contact a sealing means and wherein each closure comprises a first and second layer of different polymeric films, wherein each layer has an upper and lower surface, and at least one portion of the lower surface of the first layer and at least one portion of the upper surface of the second layer are covered by at least one bondable material, wherein the upper surface of the first layer is peelably attached to the lower surface of the second layer at a separation interface, and wherein each closure has at least one portion which lacks bondable material on the lower surface of the first layer and at least one portion which lacks bondable material on the upper surface of the second layer, the portions having bondable material bonding to the container and the portions lacking bondable material not bonding to the container, wherein the films of the first and second layers have been uniaxially oriented.